

## **REMARKS**

### **Introduction**

Claims 9-13 and 15-17 are currently pending in this application after cancellation of claim 14. Claims 9, 13, 15 and 17 have been amended. In view of the explanations set forth below, Applicants submit that pending claims 9-13 and 15-17 are in condition for allowance.

### **Rejection under 35 U.S.C. §112, Second Paragraph**

Claim 7 have been rejected as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention as required under 35 U.S.C. § 112, second paragraph. Specifically, it is asserted by the Examiner that “the term scaleable is vague and indefinite and it is not clear what the term scalable is referring to.” (Office Action, p. 3).

Applicants respectfully note that claim 7 was cancelled, and that the term “scaleable” appears in claim 13. While Applicants believe the term “scaleable” is readily understood by those of ordinary skill in the art, in order to expedite prosecution Applicants have amended claim 13 to replace “scaleable” with “adjustable,” the meaning of which term is quite clear. In view of the foregoing, Applicants respectfully submit that the rejection has been overcome.

Claim 14 have been rejected as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention as required under 35 U.S.C. § 112, second paragraph. Specifically, it is asserted by the Examiner that “the term manipulation is vague and indefinite and it is not clear what the term manipulation is referring to.” (Office Action, p. 3).

Although Applicants believe the term “manipulation” is readily understood by those of ordinary skill in the art, in order to expedite prosecution Applicants have amended claim 9 (which now incorporates the features previously recited in claim 14) and claim 15 (which also recited “manipulation”) to replace “manipulation of the data” with “operation on the

data,” the meaning of which phrase is quite clear. In view of the foregoing, Applicants respectfully submit that the rejection has been overcome.

**Rejection of Claims 9 and 11-17 under 35 U.S.C. §102(b)**

Claims 9 and 11-17 are rejected under 35 U.S.C. 102(b) as being allegedly anticipated by U.S. Patent No. 4,715,030 to Koch et al. ("Koch"). Claim 14 has been cancelled. Applicants respectfully traverse this rejection for at least the reasons presented below.

As regards the anticipation rejections of the claims, to reject a claim under 35 U.S.C. § 102(b), the Office must demonstrate that each and every claim feature is identically described or contained in a single prior art reference. *See Scripps Clinic & Research Foundation v. Genentech, Inc.*, 18 U.S.P.Q.2d 1001, 1010 (Fed. Cir. 1991)). Still further, not only must each of the claim features be identically described, an anticipatory reference must also enable a person having ordinary skill in the art to practice the claimed invention, namely the claimed subject matter of the claims, as discussed herein. *See Akzo, N.V. v. U.S.I.T.C.*, 1 U.S.P.Q.2d 1241, 1245 (Fed. Cir. 1986)). To the extent that the Office Action may be relying on the inherency doctrine, it is respectfully submitted that to rely on inherency, the Office must provide a “basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristics *necessarily* flows from the teachings of the applied art.” *See* M.P.E.P. § 2112; emphasis in original; and *see Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Int’f. 1990).

Amended claim 9 recites, in relevant parts, “means for monitoring volume of incoming and outgoing data flowing through the network bridge and its memory, the means for monitoring being configurable by a higher-level instance, wherein the means for monitoring is configured in such a way that in addition to an analysis of the data, operation on the data is performed as well.” Amended claim 17 recites substantially similar features as the above-recited features of claim 9.

Koch fails to disclose or suggest “means for monitoring volume of incoming and outgoing data flowing through the network bridge and its memory, the means for monitoring being configurable by a higher-level instance; wherein the means for monitoring is configured in

such a way that in addition to an analysis of the data, operation on the data is performed as well,” as recited in claims 9 and 17.

Koch discloses an apparatus for bridging between two local area networks. The apparatus has two bridge sides each including means for receiving or transmitting a message frame, controller means for directing an incoming message frame into a memory means shared between the bridge sides or directing a frame out of the memory means for transmission, address reading means for reading an address portion of the incoming frame and processor means for determining frame transmissibility from the address portion as provided by the address reading means. The apparatus is configured such that the processor means determines incoming frame transmissibility substantially concurrent with the controller means directing the incoming frame into the memory means.

Koch fails to disclose monitoring volume of incoming and outgoing data flowing through the network bridge and its memory. Koch's system follows a detailed flow process in determining whether or not to transmit incoming messages. In particular, a reader reads the source and destination addresses of an incoming message while the frame itself is stored within the bridge 50. *Koch, Col. 8, lines 30 through 40*. Substantially simultaneously, Koch determines whether or not the frame should be transmitted through utilization of both the source and destination address in the determination. Significantly, this determination involves determining whether the received frame destination address is included in the source address table. *Koch, Col. 8, lines 29 through 31; Col. 7, lines 50 through 63*. Determination of whether certain addresses are in a source data table fails to suggest monitoring of volume of incoming and outgoing data. Moreover, volume of incoming frames is not of a particular concern to Koch's system. During the bridge operation, both sides of bridge 50 receive message frames, and processors on both sides determine the transmissibility of the received frames. RAM 98 is sized to hold a sufficient number of received frames so that it is highly unlikely the RAM will overflow during bridge operation. Since the network interface does not simultaneously transmit and receive, the LAN controller on each bridge side gives priority to receiving message frames. *Koch, Col. 13, lines 7 through 15*. Furthermore, Koch discloses reading source and destination addresses for every frame received, and storing of every incoming frame within the RAM 98 without regard to volume of contents received. *Koch,*

*Col. 9, lines 7 through 22.* Since Koch is not concerned with monitoring the volume of frames, it teaches away from the claimed invention. Accordingly, Koch fails to disclose or suggest means for monitoring volume of incoming and outgoing data flowing through the network bridge and its memory.

Independent of the above, Koch fails to disclose a means for monitoring being configurable by a higher-level instance. Specifically, Koch's system receives all incoming frames, have the address reader read the source and destination addresses of the incoming frame, stores the address into a local RAM, while simultaneously, the system stores the frame in memory 98 without the need to communicate with the processor to determine where the incoming frame should be stored. *Koch, Col. 8, lines 40 through 50; Col. 9, lines 15 through 18.* Notably, these processes, as depicted in Fig. 4a, occurs directly and routinely without any interference from any higher-level instance. Nowhere does Koch disclose or suggest that any part of the monitoring process may be configured by a higher level instance.

For at least the foregoing reasons, Applicants respectfully submit that pending claims 9 and 17, as well as pending dependent claims 11-13 and 15-16, are allowable over Koch.

**Rejection of Claim 10 under 35 U.S.C. §103(a)**

Claim 10 was rejected under 35 U.S.C. §103(a) as being unpatentable over Koch in view of U.S. Patent 6,519,671 ("Kondou"). Applicants respectfully submit that the obviousness rejection should be withdrawn for at least the following reasons.

In order for a claim to be rejected for obviousness under 35 U.S.C. § 103(a), the prior art must teach or suggest each element of the claim. See Northern Telecom, Inc. v. Datapoint Corp., 908 F.2d 931, 934 (Fed. Cir. 1990), cert. denied, 111 S. Ct. 296 (1990); In re Bond, 910 F.2d 831, 834 (Fed. Cir. 1990). To establish a *prima facie* case of obviousness, the Examiner must show, *inter alia*, that there is some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify or combine the references, and that, when so modified or combined, the prior art teaches or suggests all of the claim limitations. M.P.E.P. §2143. In addition, as clearly indicated by the Supreme Court, it is "important to identify a reason that would have

prompted a person of ordinary skill in the relevant field to combine the [prior art] elements” in the manner claimed. See KSR Int’l Co. v. Teleflex, Inc., 127 S. Ct. 1727 (2007).

Claim 10 depends on claim 9. As discussed above, Koch clearly does not anticipate parent claim 9. Furthermore, the secondary Kondou reference clearly fails to remedy the deficiencies of Koch as applied against parent claim 9. Accordingly, Applicants submit that the overall teachings of Koch and Kondou cannot render dependent claim 10 obvious. For at least these reasons, withdrawal of the obviousness rejection is requested.

### CONCLUSION

In light of the foregoing, Applicants respectfully submit that all pending claims 9-13 and 15-17 are in condition for allowance. Prompt reconsideration and allowance of the present application are therefore earnestly solicited.

Respectfully submitted,

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